

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

STATE OF TEXAS, et al.

Plaintiffs,

v.

RISING EAGLE CAPITAL GROUP LLC, et al.,

Defendants.

Civil Action No. 4:20-CV-02021

**PLAINTIFFS' RESPONSE TO MOTION FOR
LEAVE TO WITHDRAW AS COUNSEL FOR DEFENDANT SCOTT SHAPIRO**

Plaintiff States of Arkansas, Indiana, Michigan, North Carolina, North Dakota, Ohio, and Texas (collectively "Plaintiff States") respectfully submit this response to Shepard Davidson's and David T. Thrasher's (collectively "Counsel") motion for leave to withdraw as counsel for Defendant Scott Shapiro (ECF No. 226).

BACKGROUND

1. This case has been on file since June 9, 2020. Defendant Shapiro was added as a defendant on October 30, 2020, when Plaintiffs filed their Second Amended Complaint.

2. On March 9, 2023, the Court entered the current Modified Docket Control Order (ECF No. 222), setting the following deadlines:

May 8, 2023 – Joint Pretrial Order and Motions in Limine,

May 19, 2023 – Docket Call,

June 2023 – Jury Trial.

3. The parties are currently in the middle of exchanging pretrial information to comply with the Court's Procedures and Modified Docket Control Order for filing the Pretrial Order on May 8, 2023. Specifically, Plaintiffs provided Counsel drafts of the Pretrial Order and jury charge on April 17, 2023, for Defendants comments by May 1, 2023. The parties also agreed to exchange their respective exhibit lists, witness lists, and contentions of the parties on April 28, 2023.

4. On April 24, 2023, Counsel informed Plaintiffs that they intend to file a request to withdraw as counsel for Defendant Shapiro.

5. On April 25, 2023, Plaintiffs responded that "due to the limited information given as justification for the withdrawal and fact that we are in the middle of an agreed exchange of pretrial information due to be filed on May 8th for a June trial setting, the States are opposed to the motion." Plaintiffs also raised that they would object to any request for an extension of the current deadlines based on Counsel's attempted withdrawal.

ARGUMENT

6. As noted above, Plaintiffs had already begun providing Defendants pretrial information when Counsel made the request to withdraw. In fact, the motion was filed just three days prior to the date the parties agreed to mutually exchange exhibit lists, witness lists, and contentions. Furthermore, the trial date, which has already been continued five times, is currently set for June 2023.

7. Plaintiffs oppose Counsel's attempted withdrawal at this late juncture out of concern that it will result in Defendants seeking more delay in this case, particularly with no substitution of counsel for Defendant Scott Shapiro.

8. In the alternative, should the Court allow Counsel to withdraw, Plaintiffs respectfully request that Defendants be held to comply with the current deadlines as noted in the Modified Docket Control Order.

PRAYER

The Plaintiff States respectfully request that the Court deny Counsel's Motion for Leave to Withdraw as Counsel for Defendant Scott Shapiro. Alternatively, should the Court grant Counsel's Motion, the Plaintiff States respectfully request that the Court order that Defendant Shapiro comply with the deadlines currently set forth in Modified Docket Control Order (ECF No. 222).

DATED: April 26, 2023.

FOR THE STATE OF ARKANSAS:

TIM GRIFFIN
Attorney General for the State of Arkansas

/s/ Amanda Wentz
AMANDA WENTZ
Ark. Bar No. 2021066
Amanda.Wentz@ArkansasAG.gov
Assistant Attorneys General
Office of the Arkansas Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201
(501) 682-1178
Counsel for Plaintiff
STATE OF ARKANSAS

FOR THE STATE OF INDIANA:

TODD ROKITA
Attorney General for the State of Indiana

/s/ Joseph D. Yeoman
DOUGLAS S. SWETNAM
Indiana Bar No. 15860-49
douglas.swetnam@atg.in.gov
JOSEPH D. YEOMAN
Indiana Bar No. 35668-29
Joseph.Yeoman@atg.in.gov
Deputy Attorneys General
302 West Washington Street
IGCS – 5th Floor
Indianapolis, IN 46204
(317) 232-6294 (Swetnam)
(317) 234-1912 (Yeoman)
(317) 232-7979 (Fax)

Counsel for Plaintiff
STATE OF INDIANA

FOR THE STATE OF MICHIGAN:

DANA NESSEL
Attorney General for the State of Michigan

/s/ Kathy Fitzgerald
KATHY FITZGERALD
Michigan State Bar No. P31454
fitzgeraldk@michigan.gov
SCOTT MERTENS
Michigan State Bar No. P60069
Mertenss@michigan.gov
MICHAEL S. HILL
Michigan State Bar No. P73084
HillM19@michigan.gov
Assistant Attorneys General
Corporate Oversight Division
Michigan Department of Attorney General
P.O. Box 30736
Lansing, MI 48909
(517) 335-7632

Counsel for Plaintiff
STATE OF MICHIGAN

FOR THE STATE OF NORTH CAROLINA:

JOSHUA H. STEIN
Attorney General for the State of North Carolina

/s/ Tracy Nayer
TRACY NAYER
North Carolina State Bar No. 36964
tnayer@ncdoj.gov
Special Deputy Attorney General
North Carolina Department of Justice
Consumer Protection Division
P.O. Box 629
Raleigh, North Carolina 27602
Telephone: (919) 716-6000
Facsimile: (919) 716-6050

Counsel for Plaintiff
STATE OF NORTH CAROLINA

FOR THE STATE OF NORTH DAKOTA:

DREW H. WRIGLEY
Attorney General for the State of North Dakota

/s/ Parrell D. Grossman
PARRELL D. GROSSMAN
North Dakota State Bar No. 04684
pgrossman@nd.gov
Assistant Attorney General
North Dakota Attorney General's Office
Consumer Protection & Antitrust Division
1720 Burlington Drive, Suite C
Bismarck, ND 58504-7736

Counsel for Plaintiff
STATE OF NORTH DAKOTA

FOR THE STATE OF OHIO:

DAVE YOST

Attorney General for the State of Ohio

/s/ Erin B. Leahy

ERIN B. LEAHY

Ohio Bar No. 69509

W. TRAVIS GARRISON

Ohio Bar No. 76757

Assistant Attorneys General

Ohio Attorney General's Office

Consumer Protection Section

30 E. Broad Street, 14th Floor

Columbus, Ohio 43215

(614) 752-4730 (Leahy)

(614) 728-1172 (Garrison)

Erin.Leahy@OhioAttorneyGeneral.gov

Travis.Garrison@OhioAttorneyGeneral.gov

Counsel for Plaintiff

STATE OF OHIO

FOR THE STATE OF TEXAS:

KEN PAXTON

Attorney General for the State of Texas

/s/ Wade A. Johnson

WADE A. JOHNSON

Fed. Bar No: 105556

Texas Bar No. 24062197

Wade.johnson@oag.texas.gov

C. BRAD SCHUELKE

Texas Bar No. 24008000

Brad.schuelke@oag.texas.gov

DAVID SHATTO

Fed. Bar No: 3725697

Texas Bar No: 24104114

ABIGAIL R. RYAN

Fed. Bar No: 614700

Texas State Bar No. 24035956

Abigail.ryan@oag.texas.gov

Assistant Attorneys General

Office of the Texas Attorney General
P.O. Box 12548 (MC-010)
Austin, Texas 78711
Telephone: (512) 463-2100
Facsimile: (512) 473-8301

Counsel for Plaintiff
STATE OF TEXAS

CERTIFICATE OF SERVICE

Pursuant to FEDERAL RULE OF CIVIL PROCEDURE 5(a), I hereby certify that on April 26, 2023, a true and correct copy of the above and foregoing document has been served using the CM/ECF system to all counsel and parties of record.

/s/ Wade A. Johnson
WADE A. JOHNSON
ASSISTANT ATTORNEY GENERAL